

1 George Panagiotou (263172)  
 2 2404 Broadway  
 3 San Diego, CA 92102  
 4 Office: 858-300-0033  
 george@olympuslawcorp.com

5 Law Office of Stephan A. Hoover  
 6 Stephan A. Hoover, Esq. (299790)  
 stephan@hooverlawsd.com  
 7 P.O. Box 723  
 Carlsbad, CA 92018  
 8 Telephone: (619) 500-4525  
 9 Facsimile: (760) 687-0013

10 Attorney for Debtor,  
 11 Bistermu Mora Salgado

12 **UNITED STATES BANKRUPTCY COURT**  
 13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 **In re**  
 15 **Bistermu Mora Salgado,**  
 16 **Debtor.**

17 **Bistermu Mora Salgado,**  
 18 **Movant,**

19 **vs.**

20 **Lendify Financial, LLC,**  
 21 **Respondent.**

**Case No. 19-02556-LT7**

**Chapter: 7**

**Notice of Failure to Oppose**

**Date: April 2, 2020**  
**Time: 10:00 a.m.**  
**Dept: 3, Room 129**

**Judge: Hon. Laura S. Taylor**

24  
 25 **TO THE UNITED STATES BANKRUPTCY JUDGE, THE CHAPTER 7**  
 26 **TRUSTEE, AND THE OFFICE OF THE UNITED STATES TRUSTEE:**

27       Debtor Bistermu Mora Salgado (“Debtor”), the Chapter 7 debtor in the above-  
 28 captioned bankruptcy case, hereby notices the Court that no opposition has been

1 served or filed in response to the Debtor's Motion for Sanctions for Violations of the  
 2 Automatic Stay and Discharge Injunction Against Lendify Financial, LLC a/k/a  
 3 Aura Financial, LLC.

4 Debtor filed and served this motion on February 14, 2020. (ECF. 17 & 18).  
 5 The date set for any opposition to be filed was 14 days from the date of service, with  
 6 three additional days allowed pursuant to FRBP 9006 – which would require a  
 7 response by March 2, 2020. No opposition was filed by that date.

8 Debtor's counsel received telephone message on March 25, 2020 from a  
 9 Kimberly Winick stating that she was representing Aura Financial in the matter and  
 10 addressing issues alleged by Aura Financial about the service of the bankruptcy  
 11 notice. In the voice message she stated, "So you've now got the correct address  
 12 which is, which is where you sent the customer complaint to be served or the motion  
 13 to be served ..." which is an admission of a party opponent and not hearsay under  
 14 FRE 801. (Dec. Hoover ¶2, Exhibit A). No request for a continuance was made by  
 15 Aura Financial's counsel at that time or since. (Dec. Hoover ¶2).

16 Counsel for Aura Financial has stated clearly that they timely received the  
 17 motion for sanctions and has failed to oppose the motion. L.B.R. 9013-7(b)(1)  
 18 requires all oppositions to be in writing and (b)(2) states a failure to object is consent  
 19 to the motion before the court.

20 No opposition has been filed with the Court, the first contact by Aura  
 21 Financial to Debtor's counsel was one week before the hearing date, no continuance  
 22 was requested, no oral opposition should be heard should Aura Financial decide to  
 23 appear at the hearing – the motion should be granted and proceed to prove up.

24  
 25 **Law Office of Stephan A. Hoover**

26 Date: March 30, 2020

By: /s/ Stephan A. Hoover

27 Stephan A. Hoover  
 28 Attorney for Debtor

1                   **DECLARATION OF STEPHAN A. HOOVER**

2 I, STEPHAN A. HOOVER, declare as follows:

3     1) I am an attorney and licensed to practice law in California and in this district  
 4       court. I am an associate with the Law Office of Stephan A. Hoover (“SAH”),  
 5       attorney for the debtor Bistermu Mora Salgado (“Debtor”). I am knowledgeable  
 6       about the matters stated in this declaration and am competent to testify thereto.  
 7       By making this declaration, I do not intend to waive attorney-client privilege.

8     2) I received a telephone message on March 25, 2020 from a Kimberly Winick  
 9       stating that she was representing Aura Financial in the matter and addressing  
 10      issues alleged by Aura Financial about the service of the bankruptcy notice. In  
 11      the voice message she stated, “So you’ve now got the correct address which is,  
 12      which is where you sent the customer complaint to be served or the motion to  
 13      be served ...”. A true and correct copy of screenshot of the voicemail transcript  
 14      of Kimberly Winick, dated March 25, 2020, is attached hereto as **Exhibit A** and  
 15      incorporated herein by this reference. No request for a continuance was made  
 16      by Aura Financial’s counsel at that time or since. I responded to her by email  
 17      detailing the deficiencies of both her substantive and procedural points but got  
 18      no response.

19  
 20       I declare under penalty of perjury, pursuant to the law of the State of  
 21      California and the United States, that the foregoing statements are true and correct  
 22      to the best of my knowledge, information and belief. Executed this 30th day of  
 23      March, 2020 in Carlsbad, California.

24  
 25                   **Law Office of Stephan A. Hoover**

26 Date: March 30, 2020

27 By: /s/ Stephan A. Hoover  
 28 Stephan A. Hoover  
 Attorney for Debtor

## Exhibit A



(213) 309-5794

Wed 1:47 PM

...



0:00



2:05

Stephen it's Kimberly. Winick and I am  
~~calling you about the motion of Foster~~



(213) 309-5794

Wed 1:47 PM

...



0:00



2:05

again in June of 2019. So you've now  
got the correct address which is off  
which I'm actually have right in front of  
me, which is where you sent the  
customer complaint to be served or the  
motion to be served Monday. But the